

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795	Hearing Date/Agenda Number P.C. 06-12-02 Item. 3.I.
STAFF REPORT	File Number CP 02-024
	Application Type Conditional Use Permit
	Council District 4
	Planning Area Berryessa
	Assessor's Parcel Number(s) 241-14-002

PROJECT DESCRIPTION	Completed by: Caleb Gretton
Location: East side of Oakland Road approximately 1,200 feet southerly of Murphy Avenue	
Gross Acreage: 67.00	Net Acreage: 67.00 Net Density: N/A
Existing Zoning: A Agricultural	Existing Use: City of San Jose Municipal Golf Course
Proposed Zoning: No change	Proposed Use: Existing use with the addition of six wireless telecommunication antennas and associated equipment.

GENERAL PLAN	Completed by: CG
Land Use/Transportation Diagram Designation Public Park and Open Space	Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING	Completed by: CG
North: Commercial/Industrial offices	A(PD) Planned Development
East: Single-family detached residential	A(PD) Planned Development
South: Mobile Home Park	R-MH Mobile Home Park
West: Industrial Research and Development uses	IP Industrial Park

ENVIRONMENTAL STATUS	Completed by: CG
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on	<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete

FILE HISTORY	Completed by: CG
Annexation Title: Orchard No. 28	Date: 06/10/60

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision	Date: _____ <input type="checkbox"/> _____	Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation

OWNER	APPLICANT/DEVELOPER
City of San Jose 84 W. Santa Clara Street Rm 460 San Jose CA. 95113	Cingular Wireless 4420 Rosewood Dr. 3 rd Floor Pleasanton CA 94588

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: CG

Department of Public Works

No comments

Other Departments and Agencies

See attached memo from the Fire Department.

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, Cingular Wireless, is requesting a Conditional Use Permit to allow the installation of six wireless communication antennas mounted on an existing wooden pole used for the protective netting along the driving range boundary at the City of San Jose Municipal Golf Course. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas located in an Agricultural zoning district.

Surrounding uses include single-family detached residences to the northeast, industrial and commercial offices to the north, and industrial uses across Oakland Road to the west. To the south of the subject property is a mobile home park and industrial uses.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from antennas of the proposed type posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined that the reported interference resulted from cordless telephones and not from the antennas.

Project Description

The proposed project consists of the installation of six wireless communication antennas mounted on one of the existing 60-foot tall wooden poles used to support the protective netting along side the driving range at the San Jose Municipal Golf Course located on Oakland Road. The proposed antennas shall be located no higher than 59 feet on the existing pole. Associated equipment will be housed in a new 190 square foot equipment shelter located to the south of the driving range, adjacent to the interior driveway.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act pursuant to Section 15303 which pertains to the new construction or conversion of small structures such as that which is proposed.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the subject site's General Plan Land Use/Transportation Diagram designation of Public Park and Open Space.

ANALYSIS

The primary issue analyzed is conformance to Council Policy 6-20, Land Use Policy for Wireless Communication Antennas, which provides criteria for siting such facilities, including setbacks from residential uses, visual impacts and parking.

Conformance to the Council Policy for Wireless Communications Facilities

The City of San Jose may allow the installation of wireless communication antenna with a Conditional Use Permit to ensure such projects conform to the City requirements and are compatible with the surrounding neighborhood.

The Council Policy recommends wireless antennas to be located a minimum of 50 feet horizontally from any property with a residential use or General Plan designation. Consistent with the intent of the Council policy, the proposed antennas are located approximately 700 feet horizontally from the nearest existing single-family residences.

The Council Policy requires new wireless antennas to be located as to minimize visual impacts, and to be architecturally integrated into the structure. It also requires ancillary equipment to be screened. The proposed antennas and equipment cabinet are set well back from the public right-of-way and from existing residences in the area. Existing landscaping will serve as adequate screening from off-site and on-site. In addition the equipment enclosure shall be enclosed in a solid masonry wall. Consistent with Council Policy, the proposed project will not eliminate required parking.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public Park and Open Space on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the A Agricultural Zoning District.
3. The proposed antennas will be located approximately 700 feet from the nearest residential use.
4. The area adjacent to the subject structure and ancillary equipment shelter will be landscaped to help screen the subject antennas from off-site.

5. The proposed project installs a total of six wireless communication antennas mounted on one of several existing 60-foot tall wooden poles used to hold the protective netting of the driving range. The proposed antennas would have a maximum height of approximately 59 feet and do not extend above the height of the existing 60-foot wooden pole.
6. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the City's General Plan.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be

binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Cingular Wireless SF 955-01 Golf Course" dated April 30, 2002, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
2. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
5. **Lighting.** This permit allows no new on-site lighting.
6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.

8. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP02-024 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
9. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
10. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
11. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
12. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.
13. **Time Limit.** This permit shall expire five years after the date of approval. Renewal of the use through a subsequent Conditional Use Permit shall include a compliance review and an evaluation of the operation approved under the present permit.

PLEASE NOTE THAT THIS CONDITIONAL USE PERMIT HAS BEEN GRANTED FOR A PERIOD OF FIVE (5) YEARS ONLY. YOU ARE BEING SPECIFICALLY AND SEPARATELY ADVISED OF THIS TIME LIMITATION SO THAT YOU WILL CONSIDER THIS TIME LIMITATION IN YOUR DECISION TO ACCEPT THIS PERMIT OR AS YOU MAKE ANY INVESTMENT DECISION RELATED TO THIS PROPERTY.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the

San José Municipal Code it finds:

- a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

CG:ll/207-10